



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
AGENDA

TUESDAY

APRIL 21, 2015

7:00 P.M.

• **6:00 pm – Finance & Administration Committee Meeting**

- A. PLEDGE OF ALLEGIANCE
- B. CONSENT AGENDA
 - 1. SIGNATURES
 - 2. SECRETARY'S REPORTS
 - a. April 6, 2015 Minutes
 - 3. COMMUNICATIONS
 - 4. REPORTS
 - a. Services Committee Minutes – 3/9/2015
 - b. Finance Committee Minutes – 3/16/2015
- C. PUBLIC COMMENTS
- D. POLICY AGENDA
 - 1. NEWS, PRESENTATIONS & AWARDS
 - 2. PUBLIC HEARINGS
 - a. Amendments to Sale of Town Owned Real Estate Ordinance
 - 3. NOMINATIONS – APPOINTMENTS – ELECTIONS
 - 4. UNFINISHED BUSINESS
 - a. Coldbrook Road and Emera Maine Credit Enhancement Agreement – Council Approval
 - 5. NEW BUSINESS
 - a. Connor Roy Eagle Scout Bridge Project – Services Committee Recommendation
 - b. Zoning Ordinance Text Amendment re Conditional Lot Dimensions – Planning & Development Committee Recommendation to Refer to Planning Board

NOTE: The Council will take a 5-minute recess at 8:00 pm.

- c. Zoning Ordinance Text Amendment re Industrial District Building Height Standards – Planning & Development Committee Recommendation to Refer to Planning Board
- d. Public Safety Request to go out to bid for New Ambulance – Finance Committee Recommendation
- e. 2016 Budget Presentation and Proposed Schedule
- f. Possible Violation of Code of Ethics by a Town Councilor – Requested by Councilor Sirois
 - 1. Executive Session pursuant to 1 MRS Sections 405(6)(A) and 406(6)(E)
 - 2. Council Action

E. COMMITTEE REPORTS

F. MANAGER'S REPORT

G. COUNCILORS' COMMENTS

H. ADJOURNMENT



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY APRIL 6, 2015 7:00 P.M.

Attending:

Mayor David Ryder
Councilor William Shakespeare
Councilor Terry McAvoy
Councilor Dennis Marble
Councilor Carol Duprey
Councilor Stephen Wilde
Councilor Greg Sirois

Town Attorney Tom Russell
Town Manager Susan Lessard
Town Clerk Denise Hodsdon
Public Safety Director Joe Rogers
Code Enforcement Officer Myles Block
Commissioner Richard Rosen
Members of HA Unified Basketball Team
Citizens

The meeting was called to order by Mayor Ryder at 7:00 pm.

- A. PLEDGE OF ALLEGIANCE – Mayor Ryder led the Pledge of Allegiance
- B. CONSENT AGENDA – Motion by Councilor Marble, seconded by Councilor Shakespeare to accept the Consent Agenda. Unanimous vote in favor.
 - 1. SIGNATURES
 - 2. SECRETARY’S REPORTS
 - a. March 16, 2015 Minutes
 - 3. COMMUNICATIONS
 - a. Victualers License Renewals:
 - 1. Dysart’s Service
 - 2. R & K Variety
 - 3. Pizza Gourmet
 - 4. Best Western White House Inn Filibuster Lounge
 - 5. Armstrong Tennis Center
 - 4. REPORTS
 - a. Infrastructure Committee Minutes – 2/23/2015
 - b. Finance Committee Minutes – 3/2/2015
 - c. Monthly Department Reports – January & February 2015
 - d. Pool Board Minutes – 2/10/2015
- C. PUBLIC COMMENTS – There were none.
- D. POLICY AGENDA

1. NEWS, PRESENTATIONS & AWARDS

- a. **Council Recognition – Hampden Academy Unified Basketball Team – State Championship** – *Mayor Ryder presented a proclamation from the Council to members of the Hampden Academy Unified Basketball Team in recognition of the team winning the state championship. To commemorate the team's "sweet success" Mayor Ryder also presented the team with a chocolate candy arrangement.*
- b. **State Budget – Commissioner Rosen – Councilor McAvoy** – *Councilor McAvoy invited Richard Rosen, Commissioner of the Maine Department of Administrative and Financial Services, to give a short presentation on Governor LePage's proposed budget and tax reform plan. Copies of the materials he provided to the Council are attached and made a part of the minutes.*

2. PUBLIC HEARINGS

- a. **Application for Victualers License received from John & Corinne Lanpher d/b/a JC's Variety** – *Mayor Ryder opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Marble to approve the application. Unanimous vote in favor.*
- b. **Amendments to Life Safety Code Ordinance** – *Code Enforcement Officer Myles Block explained that the purpose of these amendments is to replace the current NFPA 101 Life Safety Code 2003 edition with the 2009 edition, as adopted and amended by the State. Mayor Ryder opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Sirois to adopt the amendments to the Life Safety Code Ordinance. Unanimous vote in favor.*
- c. **Amendments to Fire Prevention Code Ordinance** – *Code Enforcement Officer Myles Block explained that the purpose of these amendments is to replace the current BOCA National Fire Prevention 1990 edition with the NFPA 1 Uniform Fire Code 2006 edition, as adopted and amended by the State. Mayor Ryder opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Sirois to adopt the amendments to the Fire Prevention Code Ordinance. Unanimous vote in favor.*

3. NOMINATIONS – APPOINTMENTS – ELECTIONS – *There were none.*

4. UNFINISHED BUSINESS

- a. **Update – Disposition of Tax-Acquired Property at 106 Manning Mill Rd.** – *Manager Lessard informed the Council that the mortgage holder had paid all outstanding amounts due and the property was quitclaimed back to the record owner.*

5. NEW BUSINESS

- a. **Children’s Day Update – Councilor Shakespeare** – *Councilor Shakespeare asked former Mayor Janet Hughes to update the Council on the progress in putting together a Children’s Day Committee of volunteers. Mrs. Hughes informed the Council that she and former Councilor Tom Brann had reached out to the community and an organizational meeting was held. There are currently 21 members on the committee and they will be electing officers at their next meeting. She said the committee is looking for a commitment from the Town that it will continue to support Children’s Day by recognizing that it is a Town event and that the Town will continue to provide insurance coverage, Public Safety services, and the assistance of Recreation Director Shelley Abbott as a liaison between the Town and the Committee. Motion by Councilor Shakespeare, seconded by Councilor Sirois that the Town support Children’s Day with the necessary insurance and services requested by Janet Hughes. Unanimous vote in favor.*
- b. **Alewives Fishing Rights** – *Motion by Councilor McAvoy, seconded by Councilor Marble that the Town retain its fishing rights for alewives. Unanimous vote in favor.*
- c. **Water District – Drill Test Wells on Library Property – Infrastructure Committee Recommendation** – *Infrastructure Committee Chair Marble explained that the Water District has some concern about a back-up water supply and has asked for permission to drill test wells on the aquifer located on the library property. Motion by Councilor Wilde, seconded by Councilor McAvoy to grant permission for the Water District to drill the test wells. Unanimous vote in favor.*
- d. **Sewer Line Replacement – Route 1A/Old County Road – Planning & Development Committee Recommendation** – *Planning & Development Committee Chair Shakespeare explained that the sewer lines at the intersection of Route 1A and Old County Road are in need of replacement. The Water District will be doing work in that area and the Committee discussed including the Town’s project as a non-binding bid option in the Water District’s bid proposal. Motion by Councilor Shakespeare, seconded by Councilor Marble to include the replacement of sewer lines as a non-binding bid option to the Water District’s bid proposal. Vote was unanimously in favor.*
- e. **Zoning Ordinance Map Amendment – Main Road North – Planning & Development Committee Recommendation & Referral to Planning Board** – *Motion by Councilor Shakespeare, seconded by Councilor Marble to refer this to the Planning Board. Unanimous vote in favor.*

- f. **Zoning Ordinance Text Amendment – Article 3.9 Rural District Frontage Exception for Cul-de-sac Lots – Planning & Development Committee Recommendation & Referral to Planning Board – Motion by Councilor Shakespeare, seconded by Councilor Wilde to refer this to the Planning Board. Unanimous vote in favor.**
- g. **Proposed Amendments to Sale of Town Owned Real Estate Ordinance – Finance & Administration Committee Recommendation and Introduction for Public Hearing – Councilor Sirois introduced this for public hearing at the next meeting.**

E. COMMITTEE REPORTS

Services Committee – Councilor McAvoy reported that the next meeting will be at 6:00 pm on Monday April 13th.

Infrastructure Committee – Councilor Marble reported that the committee last met on March 23rd and reviewed an analysis of repair costs on public works equipment and discussed the sewer line replacement project, the LED lighting project at the library and the Water District's request to drill test wells on the library property.

Planning & Development Committee – Councilor Shakespeare reported that at its last meeting the committee heard an update on the MRC project. He noted that there will be a public informational meeting regarding the MRC project at 7:00 pm on April 27th in the Community Room. The committee also reviewed a proposed draft to the Zoning Ordinance regarding lots on cul-de-sacs and discussed future economic development initiatives.

Finance & Administration Committee – Mayor Ryder reported that the Committee continued its review of Council Rules, reviewed the draft letter to the School Board regarding the RSU #22 budget, discussed proposed amendments to the Sale of Town Owned Real Estate Ordinance, and considered adoption of "Ethical Principles for Excellence in Government" and "10 Habits of Highly Effective Town Councils". The committee recommended incorporating both into the Town's Code of Ethics.

- F. MANAGER'S REPORT** – A copy of the Manager's Report is attached and made a part of the minutes.

G. COUNCILORS' COMMENTS

Councilor McAvoy commented that Mother Nature has spurned us yet again but pointed out that Spring will get here sooner or later and he reminded everyone to buy American and shop local.

Councilor Marble noted that recently a couple of our community's political extremists got active again in terms of a mass email. He said initially he took issue with it and had prepared comments to address it but decided it was not worth it. He reminded residents of District 2 that there will be a Hot Stove session at the Library on April 18th.

Councilor Duprey thanked Commissioner Rosen for coming this evening and Councilor McAvoy for inviting him. She also advised folks volunteering with the stream cleanup to wear boots, otherwise your feet will get very wet.

Councilor Wilde also thanked Commissioner Rosen and Councilor McAvoy. He also joined Councilor Marble and chose not to comment on things going on outside the Council and noted that we need to stick to the work that we are doing.

Councilor Shakespeare said we need the public's help with keeping Hampden beautiful and noted that he and Councilor Sirois will be joining in the stream clean up. He challenged other Councilors to do the same. He said he hates politics and he'd like to

MANAGER'S REPORT

April 6, 2015

Public Works Interviews – Mayor Ryder, Councilor McAvoy and I have been doing interviews for Public Works Director candidates. We are fortunate to have received applications from many qualified people. The process is on track to have a recommended candidate to the Council for approval at the May 4th Council meeting.

Budget – In addition to interviewing public works director candidates I have also been working on the budget for 2015/16. It is my intention to present that to the Council on April 20th along with a proposed schedule for budget review.

Sewer Liens – 30 day notices for unpaid sewer charges were sent out in mid-March and those remaining unpaid as of April 16th will have a lien placed on the property.

School Budget Presentation – I will be attending the School Board Meeting on Tuesday, April 7th to listen to the budget presentation. I have received a copy of the information that will be presented from the Superintendent. The budget as presented would require an additional \$97,443.40 from the Town of Hampden, bringing the annual local share for Hampden to \$6,130,574.

Public Safety Flooring – The Public Safety flooring project is complete and turned out very well. Public Safety staff has taken on the job of painting some of the offices now that the flooring has been done as well. We will be looking to resolve the drainage problem that has impacted the flooring downstairs so that in another year that can also be replaced.

Tax Collection – I am pleased to report that as of tax due date on April 1st, 90% of taxes assessed for 2014/15 had been collected. Thank you to all the residents and businesses that do such a good job of staying current with their property tax payments.

Street/Stream Cleanup – The annual street/stream cleanup for the Town will be held on Saturday, May 9th. Volunteers should meet at the Municipal Building Community room at 9 a.m.

Hike for the Homeless - The annual Hike for the Homeless is being held on Saturday, April 11th. Interested walkers should meet at Hampden Academy at 89 Western Avenue. Registration begins at 8:30 a.m. and the walk departs at 9:30 a.m. It is a 5.4 mile route to the Bangor waterfront. The registration fee is \$15 per individual with the proceeds going to benefit the Bangor Homeless Shelter, and people are encouraged to get pledges to help augment the amount raised for this worthy cause. This is the 20th annual hike. The Bangor Area Homeless Shelter serves not only the City of Bangor, but the entire region. Hampden has a record of turning out many walkers for this event – including many of the students at Hampden Academy. I encourage everyone who can to meet at Hampden Academy on Saturday April 11th to participate in this worthwhile event. If you cannot do the hike but still want to help – donations can be made to the Homeless Shelter.

Town Council Meeting

April 6, 2015

think he is here serving the public. After Children's Day and other things discussed tonight, he'd like to think that we're all about Hampden Pride.

***Councilor Sirois** encouraged everyone to participate in the Hike for the Homeless and noted that if you can't walk, there are volunteer opportunities as well.*

H. ADJOURNMENT – *There being no further business, the meeting adjourned at 8:44 pm.*

A handwritten signature in black ink that reads "Denise Hodsdon". The signature is written in a cursive style with a large initial 'D' and a long, sweeping underline.

Denise Hodsdon
Town Clerk

SERVICES COMMITTEE MEETING
Monday, March 9, 2015

Attending:

Mayor David Ryder	Councilor William Shakespeare
Councilor Carol Duprey	Councilor Terry McAvoy
Councilor Dennis Marble	Councilor Stephen Wilde
Councilor Greg Sirois	Susan Lessard, Town Manager
Thomas Brann	Janet Hughes
Pool Director Darcey Peakall	Papermill Park Vol. Coordinator Jeremy Jones

The meeting was opened at 6 p.m. by Chairman McAvoy.

1. MINUTES – 2/10/2015 – The minutes of the 2/10/15 meeting were reviewed and approved as written.
2. OLD BUSINESS
 - a. Parks Update – The Town Manager provided requested information related to replacement cost for the charcoal grills at Dorothea Dix Park. They can be purchased already built for less than the Town could have them made for at a metal shop so the Town will move forward with purchasing four new ones to be installed when the park is open again. Also, there will be a meeting on March 26th at 6:30 at the Skehan Center to begin discussions of a recreation plan for the Town. Everyone is invited to attend.
 - b. Cable TV Equipment Needs Update – The Town Manager reported that she and the Town Clerk and GIS/IT Specialist had met with Rodney Verrill from NESCOM and gotten information related to the cost for cameras, sound, and broadcast equipment of approximately \$65,000. However, that cost could be reduced somewhat if lighting issues in the council chambers were addressed. She also informed the Committee that Time Warner was not being cooperative with the Cable Consortium in terms of moving forward with new cable contracts for the communities that are part of the Consortium. There is no way to know when the Town will receive the \$50,000 from Time Warner that is connected to the new contract that was discussed for use to pay for this project. Also discussed was whether this project should be put out to bid. The Committee will discuss this aspect when it has more information. The Manager will report back to the April Services meeting with more information.
3. NEW BUSINESS
 - a. Pool Director/Review of Current Budget & Operations – Pool Director Darcey Peakall attended the meeting and answered questions from Committee members related to hours of operations, staff wages, and program offerings. There was some discussion and disagreement as to whether or not this session was necessary given that budget discussions will be held in another month or two.
 - b. Flag Project – Request for Town to assume – Dr. Allison Berube had emailed the Town Manager requesting that the Town take over the flag project that was started a number of years ago. The history of the project was discussed

and concerns raised over the Town adding additional costs to its operations. It presently operates that the group had been putting up the flags in the Spring and replacing any that were damaged and the Town had them taken down when the Christmas decorations were put up in November. The group has \$1491.36 remaining in its treasury that would be turned over to the Town. Motion by Councilor Duprey, seconded by Councilor Marble to recommend to the Council that the Town take over the flag project until funds run out for its operation. Unanimous vote in favor.

- c. Veteran's Memorial – Request for Town to assume – Dr. Berube also sent an email requesting that the Town take over responsibility for adding names to the Veteran's Memorial and selling pavers for it. The treasury has \$5,069.31 that would be turned over to the Town. Several questions were raised in regard to the monument that the Committee wants answers for before making a decision. The Manager will get information related to the cost for engraving names on the monument, the cost of pavers to buy and the price that pavers are sold for, as well as information related to the 'rules' developed for inclusion of names on the monument and whether there are names waiting to be engraved. The Manager will report back at the next meeting.
- d. Children's Day Status – Former Mayor Janet Hughes and former Councilor Thomas Brann attended the meeting seeking information about the status of Children's Day and expressed the desire to see if there was any way that the event could be held this year, even as a scaled-down version. The difficulty with finding volunteers was discussed, as was fundraising, assisting at the event, and cleanup. Janet Hughes asked the Committee for another month to investigate options and would come back to the Committee with information at their next meeting.

4. PUBLIC COMMENTS - None

5. COMMITTEE MEMBER COMMENTS – None

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Susan Lessard
Town Manager

FINANCE & ADMINISTRATION COMMITTEE MEETING MINUTES

Monday, March 16, 2015

6:00 p.m.

Hampden Town Office

Attending:

Mayor David Ryder	Town Manager Sue Lessard
Councilor Greg Sirois	Public Safety Dir. Joe Rogers
Councilor Stephen Wilde	Resident Alex King
Councilor William Shakespeare	Resident Tom Brann
Councilor Terry McAvoy	
Councilor Carol Duprey	
Councilor Dennis Marble	

The meeting was opened at 6 p.m. by Mayor Ryder.

1. Meeting Minutes
 - a. March 2, 2015 – Motion by Councilor Sirois, seconded by Councilor Shakespeare to approve the minutes of 3/2/15 as presented. Unanimous vote in favor.
2. Review & Sign Warrants – The warrants were reviewed and signed by the Finance Committee members.
3. Old Business
 - a. Continued Review of Council Rules – This item was set aside until the next meeting due to the number of items on the agenda that need to be discussed and acted on.
4. New Business
 - a. Councilor Compensation – Attendance at Workshops – The Town Manager asked the Council if they wished to change the policy for Councilor compensation and also pay Councilors for attendance at workshops that are mandatory, such as the Elected Official's Workshop with the Maine Municipal Association. Councilor McAvoy had attended the workshop and listed hours involved on his travel reimbursement sheet and since this workshop was mandatory, the manager wanted to check and see if such items would be considered on the same level as Committee meetings. Pros and cons of this were discussed. Motion by Mayor Ryder, seconded by Councilor McAvoy to leave the policy as it stands to cover only Committee or Council meetings and not other meetings even if attendance is mandatory. Unanimous vote in favor.
 - b. Police Vehicle Bid Results – Public Safety Director Joe Rogers explained to the Committee that 6 bids had been received for replacement of a police cruiser. While the low bid was received from Quirk of Augusta for a 2015 Ford Interceptor at \$27,395, the department requested that the Committee instead recommend a 2015 Chevy Tahoe from O'Connor GMC for a bid price of \$33,335.45. The

recommendation is based on the fact that the department is now keeping vehicles in service longer, the Tahoe has a better repair/service record, and it has more room to accommodate the officers and all the equipment with which they are outfitted. The Public Safety Director also reported that the Maine State Police were looking to utilize Tahoes in their fleet for the same reasons. Motion by Councilor Marble, seconded by Councilor McAvoy to recommend to the Council to award the police cruiser bid to O'Connor GMC for \$33,335.45. Unanimous vote in favor.

- c. Manager Search Process
 1. Council Workshop to Define Roles & Qualifications – The Town Manager presented information related to the use of the Eaton Peabody Consulting Group to hold a workshop for the Town Council related to roles and responsibilities of the Town Manager and the Town Council, as well as to conduct the Town Manager search process. The cost of the workshop is \$800 and the cost of the manager search is \$5000. Committee members discussed the purpose of the workshop which should help the Council be able to better determine what skills, background, and characteristics they want in the next Town Manager. The Town last used Maine Municipal Association for a Manager search but Eaton Peabody also has the ability to assist with an interim manager if necessary and that was seen as an added benefit if needed. Motion by Councilor Duprey, seconded by Councilor Shakespeare to recommend to the Council that the EPCG hold a workshop with the Council on Council/Manager roles and responsibilities and to engage EPCG to conduct the Manager search. Unanimous vote in favor.
 2. Process to End of Contract – The Town Manager reported that she would continue to work through the end of the contract to complete the following items as well as to hire a new public works director and keep regular operations running.
 - Budget
 - Contract Negotiations
 - Audit
- d. Video Taping of Committee Meetings – Further Discussion re Cost – Councilor Wilde – Councilor Wilde offered several reasons why he believes that the Town should video committee meetings as well as Council meetings including allowing residents to be able to watch the process by which Council Committees work, to assist those with disabilities that may not make it possible for them to listen to a tape and be able to understand who was speaking, and to provide more transparency. He suggested that if funding is a problem for this then perhaps the Town should stop funding the videotaping of school board meetings and instead use those monies to pay for the cost of providing video of Town Council Committee meetings. Councilor Sirois believes

that taping and airing the school board meetings is important because otherwise residents do not have video access to any of the process by which the school board makes its decisions and that given the proportion of tax dollars raised in support of education it was important for people to also be able to view the School Board meetings in the same way that they can the Town Council meetings. There was some contention between Councilors on this topic and Mayor Ryder asked for all to calm down. Councilor Marble indicated that the use of the Conference Room was more comfortable for Councilors and residents to meet in for discussions that often involve maps and visual aids that are used during the meeting. Mayor Ryder stated that anyone could get a copy of the audio file emailed to them if they wanted to know what happened in a committee meeting. Councilor Shakespeare noted that this subject has been discussed by a prior Council and it was determined at that time that the 'work session' nature of the meetings – looking over maps or presentations, was better done in the Conference room in a less formal setting than at the dais in the Council Chambers. Motion by Councilor Sirois, seconded by Councilor Shakespeare to leave the recording of Committee meetings as it is. Vote 4 in favor (Sirois, Shakespeare, Marble, Ryder) and 3 opposed (Wilde, Duprey, McAvoy). Motion carried.

- e. Request for Town to Issue License Plates – Chad Houp – The Town Manager presented an email from resident Chad Houp asking if the Town would add issuing license plates to the services offered. Several Councilors indicated that they had been asked about this service as well. While there was support for looking into the possibility of doing this, it was the consensus of the Council to discuss this after the new Town Manager was hired and had had the opportunity to evaluate the workload and feasibility of doing this. The Town Manager was asked to put this on the list of items for consideration by the Council after a new manager was hired.

5. Public Comment - None

6. Committee Member Comments – None

Motion by Councilor Marble seconded by Councilor Duprey to adjourn at 6:55 p.m.
Unanimous vote in favor.

Respectfully submitted,

Sue Lessard
Town Manager

The Town of Hampden hereby ordains that the following amendments to the Town of Hampden Sale of Town Owned Real Estate Ordinance be adopted:

Additions underlined

Deletions ~~stricken~~

**TOWN OF HAMPDEN
SALE OF TOWN OWNED REAL ESTATE ORDINANCE**

ARTICLE I - SALE OF TOWN OWNED REAL ESTATE

1.1 AUTHORITY

In accordance with ARTICLE II, Section 212 (b) of the Town Charter the Town Council shall be authorized to convey or lease any lands of the Town within the limitations fixed by the Constitution and statutes of the State of Maine as they now or may hereafter apply to said Town of Hampden.

1.1.1 SALE BY TOWN

Real estate shall be sold by the Town only after the adoption by affirmative vote of a majority of all the members of the Town Council of a Resolution calling for the sale of real estate owned by the Town; the resolution shall contain a reasonably accurate description of the property which is proposed to be sold.

1.2 DISPOSAL

After the Town Council has voted to sell real estate, notices shall be sent to each landowner abutting the proposed parcel to be sold as well as to each landowner within three (300) feet of any property line of said parcel. Landowners shall be considered to be those to whom property taxes are assessed. Failure of any landowner to receive a notice of public sale shall not necessitate another sale or invalidate any action of the Town Council. Notices shall be sent to the previous owner in the case of tax acquired property. In addition, notice of the proposed sale shall be published as specified in Article II, Section 213 (d) of the Charter, such publication to be not less than seven (7) days before the Council's final action on such sale. The notice shall contain a reasonably accurate description of the property to be sold and shall provide for a day and place when and where bids for said property shall be submitted to the Town Office.

1.3 **BID PROCEDURE**

All bids shall be submitted in writing and shall clearly identify the purchaser and the price bid for the property. Bids shall be placed in sealed envelopes and given to the Town Clerk who shall hold all such bids until the ~~close of business on the day~~ date and time designated in the notice, when the bids shall be opened by the Town Clerk. The results of the bidding shall then be submitted to the Town Council at its next regular meeting; after proponents and opponents if any, to said proposed sale have been heard, the Council may by the affirmative vote of a majority of all the members of the Council vote to convey the property to the highest bidder. The Council may reject any bid which does not comply with Town's bid procedure guidelines; furthermore, the Council may reject all bids and withdraw the offer to sell the property.

1.3.1. **DEED EXECUTION**

The Town Treasurer is hereby authorized for and on behalf of the Town of Hampden to make, execute and deliver a Quitclaim Deed to convey title to the purchaser.

1.4 **TAX FORECLOSURE ACQUIRED PROPERTY**

The Town Treasurer shall give written notice to the prior owner of record of real estate acquired by the Town by way of foreclosure of tax lien or sewer lien mortgage of the Town's intent to sell said real estate at public sale. Said notice shall be given in writing and sent via U.S. mail to the property owner's last known address at least 30 days before notice of public sale is given in the manner specified in Section 1.2 above. Failure of any prior owner to receive such notice shall not necessitate another sale or invalidate any action of the Town Council.

If the prior owner of record makes full payment of all sums due ~~the Town on the said tax claim~~, including but not limited to the amount of any tax and/or sewer liens, real estate taxes, personal property taxes, sewer charges, recording fees, interest and costs, before notice of public sale is given, the Town Treasurer shall release title to said real estate to its record owner.

ADOPTED BY THE HAMPDEN TOWN COUNCIL: November 19, 1979

EFFECTIVE: December 19, 1979

AMENDED: July 6, 1987

EFFECTIVE: August 4, 1987

D-4-a

**COLD BROOK ROAD AND EMERA MAINE
CREDIT ENHANCEMENT AGREEMENT**

THIS CREDIT ENHANCEMENT AGREEMENT, made this ____ day of _____, 2015, by and between the Town of Hampden, a municipal corporation organized and existing under the laws of the State of Maine (hereinafter “the Town”) and Emera Maine, business corporation organized and existing under the laws of the State of Maine with an office in Hampden, Maine, formerly known as Bangor Hydro Electric Company (hereinafter “the Company”)

WITNESSETH

WHEREAS, the Town has designated certain real property owned by the Company, consisting of two parcels of land located on Penobscot Meadow Drive and Coldbrook Road in Hampden Maine as a Municipal Development District and Tax Increment Financing District (the “District”) in accordance with Chapter 206 of Title 30-A, Maine Revised Statutes, as amended, by vote of the Hampden Town Council (the “Vote”) on February 9, 2015; and

WHEREAS, on the same date, the Council adopted a development program and financial plan (the “Development Program”) for the District; and

WHEREAS, the Town submitted the District and the Development Program as approved by the Town Council to the Maine Department of Economic & Community Development (“DECD”) for final review and acceptance in accordance with Title 30-A, Chapter 206; and

WHEREAS, the Commissioner of the Maine Department of Economic & Community Development (“DECD”) approved the District and the Development Program on March 27, 2015; and

WHEREAS, on April 21, 2015, the Town Council approved the execution and delivery of this Credit Enhancement Agreement with the Company; and

WHEREAS, the Town and the Company desire and intend that this Credit Enhancement Agreement be and constitute the credit enhancement agreement contemplated and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants contained herein and subject to final review and acceptance of the District and the Development Program by DECD, the parties hereby mutually agree as follows.

ARTICLE I DEFINITIONS

Section 1.1 Definitions. For the purposes of this Credit Enhancement Agreement, the following terms shall have the meanings specified in herein unless the context clearing requires otherwise:

"Agreement" shall mean this Credit Enhancement Agreement between the Town, and The Company.

"Assessment Date" means April 1st of each calendar year, the date fixed by Maine law for valuation and municipal tax liability with respect to the ensuing Tax Year.

"Development Program" means the development program for the District adopted by the Hampden Town Council on February 9, 2015.

"Captured Assessed Value" means that portion of the Increased Assessed Value that is annually retained within the District for the purpose of funding the District Development Program, as provided in the approved Development Program for the District. Provided, however, that "Captured Assessed Value" for the purpose of funding the District's Development Program shall not include the taxable value of any new personal property or equipment to be located within the District. As provided in the Financial Plan of the Development Program, the Captured Assessed Value shall be equal to one hundred percent (100%) of the Increased Assessed Value for each of the twenty Tax Years beginning July 1, 2015 and ending June 30, 2035; and shall be equal to the following percentages of the Increased Assessed Value for each of the five Tax years beginning July 1, 2035 and ending June 30, 2040.

FY 2035-2036: Eighty percent (80%)
FY 2036-2037: Sixty-Five percent (65%)
FY 2037-2038: Forty percent (40%)
FY 2038-2039: Fifteen percent (15%)
FY 2039-2040: Five percent (5%)

"Current Assessed Value" means the taxable value of all real estate located within the District (but excluding personal property and equipment) as of the annual Assessment Date.

"Development Program Fund" means the development program fund described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof.

"District" means the Cold Brook Road and Emera Maine Municipal Development District and Tax Increment Financing District designated by the Town pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, adopted by the Hampden Town

Council on February 9, 2015. The District consists of the property depicted on **Exhibit A-1, Exhibit A-2 and Exhibit A-3** attached hereto.

"Financial Plan" means the financial plan described in the "Financial Plan" section of the Development Program.

"Fiscal Year" (sometimes abbreviated "FY") means July 1 to June 30 each year or such other fiscal year as the Town may establish from time to time.

"Increased Assessed Value" means the amount, in any Tax year, by which the Current Assessed Value in the District attributable to the Project (Phase I and II) exceeds the Original Assessed Value. If said Current Assessed Value within the District does not exceed the Original Assessed Value in any Tax Year, there is no Increased Assessed Value for that Tax Year.

"Original Assessed Value" means \$1,198,200.00, the assessed value of the Company's taxable real property located within the District, as of March 31, 2014 (April 1, 2013).

"Project" means the design, planning, development, acquisition, construction and installation of capital improvements at the Company's facilities located now and hereafter within the District and as described as the Capital Program in the Development Program.

"Project Cost Account" means the Project Cost Account described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article IV hereof.

"Property Taxes" means any and all ad valorem property taxes in excess of any county, state or special district taxes, levied, charged or assessed against real estate located in the District by the Town or on its behalf.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Retained Tax Increment Revenues" means, in each Tax Year this Agreement remains in effect, the amount Property Taxes assessed and collected with respect to the Captured Assessed Value in the District pursuant to the terms of the Development Program, for the purpose of funding the Development Program.

"Retained Tax Increment Revenues – Company's Share" means, in each Tax Year this Agreement remains in effect, the following percentages of Retained Tax Increment Revenues attributable to the Company Tract shown on Exhibit A-2, to be returned to the Company in accordance with this Credit Enhancement Agreement, for the purpose of defraying the Company's costs of developing and building the Project, which may include Company's financing costs.

FY 2015-2016 through FY 2019-2020: Fifty percent (50%)
FY 2020-2021 through FY 2024-2025: Seventy-five percent (75%)
FY 2025-2026 through FY 2029-2930: Fifty percent (50%)
FY 2030-2031 through FY 2034-2035: Twenty-five percent (25%)
FY 3035-2036 through FY 2039-2040: None

"Tax Payment Date" means the later of the date(s) on which Property Taxes assessed by the Town against Real Estate located in the District are due and payable or are actually paid.

"Tax Year" means the Town's annual July 1st through June 30th fiscal year.

Section 1.2 Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(f) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1 Creation of Development Program Fund. The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as the

"Cold Brook Road and Emera Maine Development District and Tax Increment Financing District Development Program Fund" (the "Development Program Fund") pursuant to, and in accordance with, the terms and conditions of the Development Program. The Development Program Fund shall consist of a single Project Cost Account, which shall include a Company Project Cost Sub-account and a Town Project Cost Sub-account.

Section 2.2 Deposits into Development Program Fund. The Town shall deposit into the Company Project Cost Sub-account of the Development Program Fund within ten (10) days after each payment of Property Taxes with respect to Real Estate located in the District, an amount equal to that portion thereof constituting Retained Tax Increment Revenues - Company's Share for the period to which the payment relates. The Town shall allocate the amounts so deposited to fund fully and pay the payments due to the Company under Article III of this Credit Enhancement Agreement, both past due, if any, and coming due within the following 12 months. After payment by the Town of the amount(s) due to the Company for each fiscal year, any revenue resulting from the investment of monies in the Company Project Cost Sub-account that remains in the Sub-account at the end of the applicable fiscal year shall be transferred by the Town to the Town Project Cost Sub-account.

Section 2.3 Use of Monies in Company Project Cost Sub-account. Monies deposited in the Company Project Cost Sub-account shall be used and applied exclusively to fund the Town's payment obligations described in Article III hereof.

Section 2.4 Monies Held in Trust. All monies required to be deposited with or paid into the Company Project Cost Sub-account of Development Program Fund to fund payments to the Company under the provisions hereof and the provisions of the Development Program, but excluding any investment earnings thereon, shall be held by the Town in trust, for the benefit of the Company.

Section 2.5 Investments. The monies in the Company Project Cost Sub-account not immediately paid to the Company shall be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Company Project Cost Sub-account.

Section 2.6 Liens. The Town shall not create any liens, encumbrances, or other interests of any nature whatsoever, nor shall it hypothecate the Company Project Cost Sub-account of the Development Program Fund or any funds therein, other than the interest granted to the Company hereunder in and to the amounts on deposit.

ARTICLE III PAYMENT OBLIGATIONS

Section 3.1 Credit Enhancement Payments. The Town agrees to pay to The Company within thirty (30) days following each Tax Payment Date all amounts then on deposit in the Company Project Cost Sub-account, excluding earnings thereon; provided however, that all payments made hereunder shall be used only to pay Company's Project Costs directly or to reimburse the Company for payment of Project Costs (including payment or reimbursement of debt service on indebtedness incurred to finance such Project Costs).

Such reimbursement payments shall be made by the Town in each Tax Year beginning with the Tax Year starting July 1, 2015 and ending with at the conclusion of the Tax Year ending June 30, 2035. The Town shall make all such payments with respect to the District to the Company, its successors and assigns. The obligation of the Town to make such payments shall be a limited obligation payable solely out of monies actually on deposit in the Company Project Cost Sub-account of the Development Program Fund and shall not constitute a general debt or obligation on the part of the Town or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine or any political subdivision thereof.

Section 3.2 Failure to Make Payment. In the event the Town should fail to or be unable to make any of the payments required under Section 3.1 hereof, the item or installment so unpaid shall continue from year-to-year as a limited obligation of the Town under the terms and conditions hereinafter set forth until the unpaid amount shall have been fully paid. In the event of such default by the Town, the Company shall also have the right to initiate and maintain an action to specifically enforce the Town's obligations hereunder, including without limitation, the Town's obligation to deposit all Retained Tax Increment Revenues – Company's Share to the Company project Cost Sub-account of the Development Program Fund and to make payments to the Company.

Section 3.3 Manner of Payments. The payments provided for in this Article III shall be paid in immediately available funds directly to the Company in the manner provided hereinabove for its own use and benefit.

Section 3.3A Company's Payment Obligations. The Company agrees that during the term of this Agreement it shall pay, when due, all amounts lawfully assessed by the Town as Property Taxes against Real Estate located in the District.

In the event that the Company shall fail, for any reason, to pay the full amount of any such lawful Property Tax assessment when due, amounts actually paid by the Company shall be applied as follows:

First, to payment of Property Taxes assessed against that portion of Real Estate located in the District constituting the Original Assessed Value of the District;

Second, to payment the Town's portion of Retained Tax Increment Revenues on Real Estate located in the District; and

Third, to payment of Retained Tax Increment Revenues – Company's Share.

Section 3.3B Property Tax Valuation Appeals. Nothing in this Agreement shall be deemed to waive the Company's right to appeal the Town's valuation or assessment of Real Estate or other Property located in the District for tax purposes, in the same manner as provided by law for assessment and valuation appeals. Provided however, that in the event of a successful valuation appeal with respect to Real Estate located in the District, all amounts due to the Company under this Agreement as property tax reimbursements shall be based upon the final valuation and tax amount actually paid for the Tax Year concerned, as determined through the appeals process.

Section 3.4 Obligations Unconditional. Except as directly provided herein, the obligations of the Town to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Company. Except as otherwise expressly provided herein, the Town shall not suspend or discontinue any such payment or terminate this Agreement for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration or frustration of purpose or any damage to or destruction of the Project or any change in the tax or other laws of the United States, the State of Maine or any political subdivision of either thereof, or any failure of the Company to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Development Program.

Section 3.5 Limited Obligation. The Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from monies on deposit in the Company Project Cost Sub-account of the Development Program Fund, pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from Retained Tax Increment Revenues – Company's Share payable to the Company hereunder, whether or not actually deposited into the Company Project Cost Sub-account of the Development Program Fund. This Agreement shall not directly or indirectly or contingently obligate the Town, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation or to levy or to make any appropriation for their payment, excepting the Town's obligation to levy property taxes upon the Project and the pledge of the Retained Tax Increment Revenues, and earnings thereon, established under this Agreement.

Section 3.7 Indemnity. The Company agrees to defend, indemnify, pay, reimburse and hold the Town, its councilors, officers, agents and employees harmless from and

against any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, the Development Program or any claim or illegality or invalidity of the Agreement or the Development Program or the Town's approval of the District, this Agreement or the Development Program or out of the Town's preparation and participation of this Agreement or the Development Program. Provided, however, that these indemnification provisions shall apply only to matters directly related to the Tax Increment Financing portion of the Development Program and this Agreement.

ARTICLE IV PLEDGE AND SECURITY INTEREST

Section 4.1 Pledge of Company Project Cost Sub-account. In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Company by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town hereby grants a security interest in and pledges to the Company the Company Project Cost Sub-account of the Development Program Fund to the extent of the Company's rights under this Agreement to receive funds from such Project Cost Account and all sums of money and other securities and investments now or hereafter therein.

Section 4.2 Perfection of Interest. The Town shall cooperate with the Company in causing appropriate financing statements and continuation statements naming The Company as pledge of all amounts from time to time on deposit in the Company Project Cost Sub-account of the Development Program Fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

Section 4.3 Further Instruments. The Town shall, upon the reasonable request of the Company, at the Company's sole expense, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall impose any obligation or expense on the Town additional to the obligations and expenses contained elsewhere herein or constitute a pledge of the credit of the Town.

Section 4.4 No Disposition of Company Project Cost Sub-account. Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Company Project Cost Sub-account of the Development Program Fund and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part hereof not permitted hereby.

Section 4.5 Access to Books and Records. All books, records and documents in the possession of the Town relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund shall at all reasonable times be open to inspection by the Company, its agents and employees.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1 Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default:"

- (a) any failure by the Town to pay any amounts due to the Company when the same shall become due and payable;
- (b) any failure by the Town to make deposits into the Development Program Fund and/or the Project Cost Account as and when due;
- (c) any failure by the Town or the Company to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or the Company to be observed or performed; provided however, that failure of the Company to pay Property Taxes when due shall not constitute an event of default hereunder; or
- (d) if a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Town's affairs shall have been entered against the Town or the Town shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Town or of or relating to all or substantially all of its property, including without limitation, the filing of a voluntary petition in bankruptcy by the Town or the failure by the Town to have a petition in banking dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Town.

Section 5.2 Remedies on Default. Whenever any Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the non-defaulting party may take any one or more of the following remedial steps:

- (a) The non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due; to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents,

instruments and agreements contemplated hereby; or to enforce any rights or remedies available hereunder; and

- (b) The Company shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine.

Section 5.3 Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the Town with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

Section 5.4 Agreement to Pay Attorneys' Fees and Expenses. Notwithstanding the application of any other provision hereof, in the event any party should default under any of the provisions of this Agreement and the non-defaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Town or the Company herein contained, the defaulting party shall, on demand thereof, pay to the non-defaulting party the reasonable costs and expenses so incurred by the non-defaulting party.

Section 5.5 Waiver of Sovereign Immunity. The Town hereby waives its sovereign immunity with respect to any actions or suits undertaken the Company, its successors or assigns, arising out of, resulting from or involving any alleged default by the Town hereunder or failure by the Town to observe or perform any of its obligations hereunder, it being understood and agreed that such waiver is a material inducement to the Company entering into this Agreement and continuing its pursuit of the Project.

ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1 Effective Date and Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the payment of all amounts due to the Company hereunder and the performance of all obligations on the part of the Town and the Company hereunder.

Section 6.2 Cancellation and Expiration of Term. At the termination or other expiration of this Agreement and following full payment of all amounts due and owing to the Company hereunder or provision for payment thereof and of all other fees and charges having been

made in accordance with the provisions to this Agreement, the Town and the Company shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF COMPANY'S INTEREST

Section 7.1 Consent to Collateral Pledge and/or Assignment. The Town hereby acknowledges that it is the intent of the Company to pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Company to make such assignment or pledge. Recognizing this intention, the Town hereby consents and agrees to the pledge and assignment of the Company's right, title and interest in, to and under this Agreement and in, and to the payments to be made to The Company hereunder, in whole or part, to third parties as collateral or security for indebtedness or otherwise, on one or more occasions during the term hereof. For this purpose, the Town agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledge or assignee, including without limitation, recognition of the pledge or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledge or assignee the position of such assignee or pledge and the irrevocable and binding nature of this Agreement and provide to the pledge or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2 Other Assignments.

- a. Except to the extent provided in section 7.1, The Company shall not have the right to transfer or assign all or any portion of its rights in, to and under this Agreement, without the consent of the Town, which consent may be withheld at the sole discretion of the Town.
- b. Prior to giving consent to any such proposed assignment, the Town must receive documentation in form and substance satisfactory to it, that the proposed assignee accepts and agrees to be bound by the terms and conditions of this Agreement.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Successors. The covenants, stipulations, promises and agreements set forth herein shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

Section 8.2 Parties in Interest. Except as otherwise expressly provided herein, nothing in this Agreement is intended or shall be construed to confer upon any person, firm or corporation,

other than the Town and the Company any right, remedy or claim; it being intended that this Agreement shall be for the sole and exclusive benefit of the Town, the Company and their respective successors and assigns.

Section 8.3 Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4 No Personal Liability of Officials of the Town. No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his or her individual capacity and neither the members of the Town Council of the Town nor any official, officer, employee or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6 Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7 Notices. All notices, certificates, requests, requisitions or other communications by the Town or The Company pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town:

Town Manager
Town of Hampden
106 Western Avenue
Hampden, Maine 04444

If to the Company:

Legal Notices
P. O. Box 932
Bangor, Maine 04402-0932

Any of the parties may, by notice given to the other in the manner provided herein, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8 Amendments. This Agreement may be amended only with the concurring written consent of the parties hereto.

Section 8.9 Net Agreement. This Agreement shall be deemed and construed to be a "net agreement," and the Town shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without abatement, deductions or setoffs.

Section 8.10 Benefit of Assignees or Pledgees. The Town agrees that this Agreement is executed in part to induce assignees or pledgees to provide financing for the Project and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledge from time to time of The Company's right, title and interest herein.

Section 8.11 Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The Town and the Company hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to the Company's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.12. Development Agreement. The Development Program and Financial Plan for the District as approved by the Town shall be deemed to be part of and incorporated in this Agreement. Provided however, that in the event of any conflict between this Agreement and the Development Program or Financial Plan, this Agreement shall control, to the extent permitted by law, over any such inconsistent provisions of the Development Program or Financial Plan.

Section 8.13 Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, written or oral, between the Town and The Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

ARTICLE IX FAILURE TO COMPLETE PHASE II

The Town's regular Credit Enhancement Agreement policy is to limit its term to a period of ten years. In consideration of the contemplated construction of Phase II of the Project and the relocation of the Company's corporate offices to the District (Project Phase II), the Town has agreed to enter into this Credit Enhancement Agreement over a period of twenty (20) years as reflected in the definition of the term "Retained Tax Increment Revenues – Company's Share" in Section 1.1. If the Company does not substantially complete Phase II of the Project, including relocation of the Company's corporate offices to the District, by July 1, 2019, the reimbursement

period shall terminate on June 30, 2025 and the Reimbursement Percentage for Fiscal Years FY 2020-2021 through FY 2024-2025 as set forth in the definition of the term “Retained Tax Increment Revenues – Company’s Share” shall be reduced from 75% to 50%. This termination will occur unless the Town and Company agree to a modified credit enhancement allocation as a remedy for the failure of the Company to complete Phase II or relocate its corporate offices to the District. Any such modification may allow for a credit enhancement equal to or less than the terms set forth in this Agreement, but shall not exceed them.

ARTICLE X RECAPTURE

Notwithstanding any other provision of this Agreement, in the event that:

(i) Company, during the term of this Agreement, conveys, assigns, subleases, transfers or otherwise disposes of its ownership of the Project;

(ii) Company, during the term of this Agreement, relocates its business in the District, including its corporate headquarters, to a location outside of the Town’s corporate limits;

(iii) Company makes any sale, transfer, conveyance or assignment of this Agreement or its rights hereunder that is not permitted under Article VII hereof; or

(iv) Company, for a period of 180 consecutive days during the term of this Agreement, ceases to operate the Project within the District;

then and in any such event only, Company agrees to repay to the Town, within 30 days of Town’s written request therefore, all amounts paid to Company by the Town pursuant to this Agreement, together with interest on the amounts so paid at 4% per annum computed from the date of each payment by the Town to Company, computed as of the date of such repayment to Town. Provided, however, that for each complete fiscal year after FY 2024-2025 that passes before the triggering recapture event, the repayment principal amount shall be reduced by 10%. For example, if the triggering event occurs on July 1, 2028, the payment due would 70% of all amounts paid to Company by the Town pursuant to this Agreement through the fiscal year ending on June 30, 2028, plus the interest thereon as calculated above.

IN WITNESS WHEREOF, the Town and the Company have caused this Agreement to be executed in their respective names and their respective seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

TOWN OF HAMPDEN

Witness

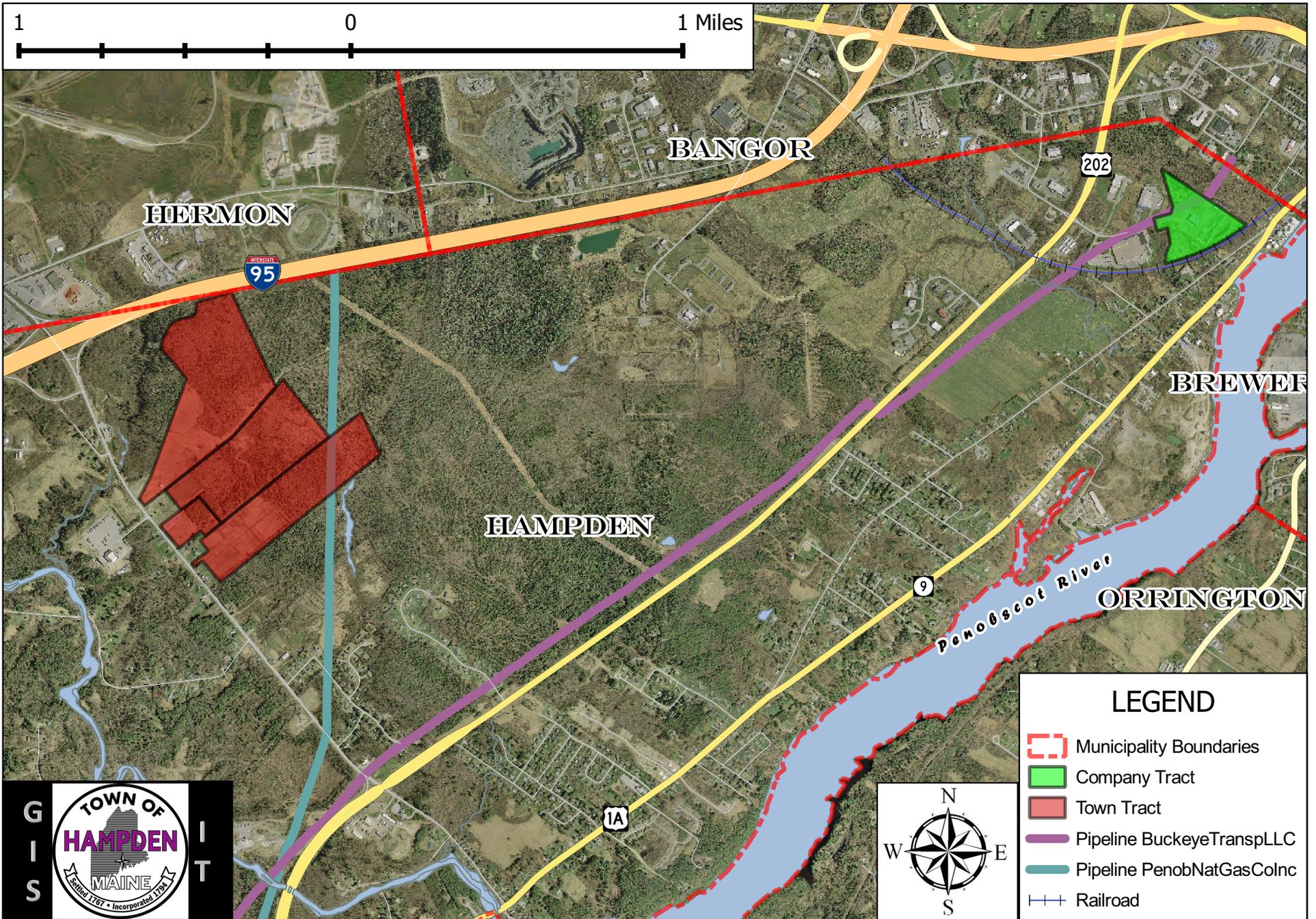
By: _____
Susan M. Lessard
Its Town Manager

EMERA MAINE, f/k/a
BANGOR HYDROELECTRIC COMPANY

Witness

By: _____
Name: _____
Its: _____

EXHIBIT A-1
TIF DISTRICT MAP SHOWING IN RELATION TO MUNICIPALITY BOUNDARIES



LEGEND

- Municipality Boundaries
- Company Tract
- Town Tract
- Pipeline BuckeyeTranspLLC
- Pipeline PenobNatGasColnc
- Railroad

EXHIBIT A-2
MAP SHOWING TIF DISTRICT BOUNDARY : COMPANY TRACT

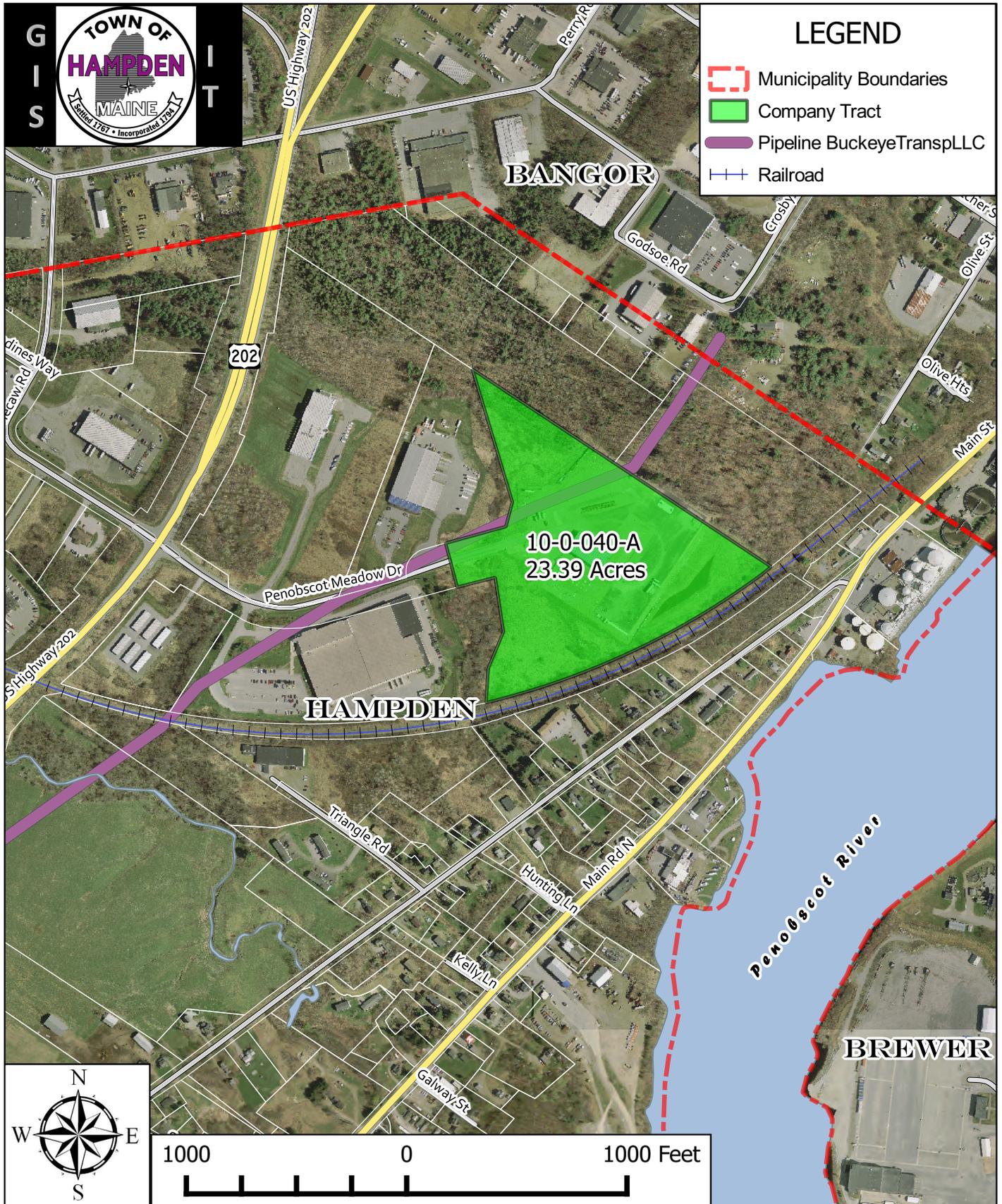
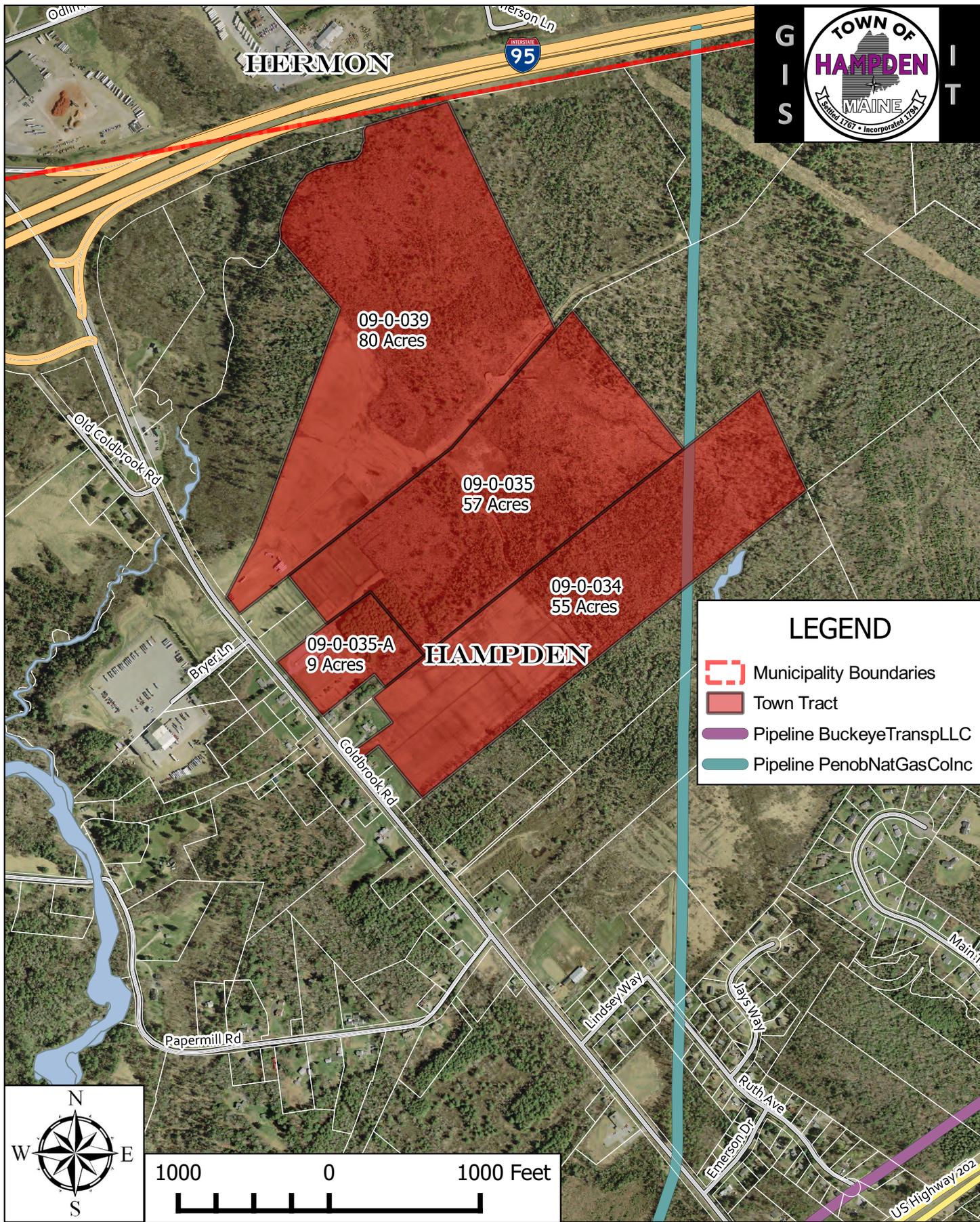


EXHIBIT A-3
MAP SHOWING TIF DISTRICT BOUNDARY : TOWN TRACT



SERVICES COMMITTEE MEETING
Monday, April 13, 2015

Attending:

Councilor Dennis Marble
 Councilor Stephen Wilde
 Councilor Terry McAvoy
 Mayor David Ryder
 Eagle Scout Connor Roy
 Resident Alex King

Councilor William Shakespeare
 Councilor Carol Duprey
 Councilor Greg Sirois
 Town Manager Sue Lessard
 Resident Rich Armstrong
 Marcia Larkin, Penquis CAP Lynx

The meeting was opened at 6 p.m. by Chairman Councilor McAvoy.

1. MINUTES – 3-9-15 – Motion by Mayor Ryder, seconded by Councilor Marble to approve the 3-9-15 minutes as presented. Unanimous vote in favor.
2. OLD BUSINESS
 - a. Parks Update – Connor Roy, Eagle Scout, attended the meeting along with Rich Armstrong, Snowmobile Club president, to request permission from the Town to rebuild the snowmobile bridge over the Souadabscook Stream that borders on land owned by Lane and by the Town of Hampden. The project is an ambitious one that will require engineering assistance, and significant donations of money, time, and materials. Motion by Mayor Ryder, seconded by Councilor Wilde to recommend approval of this project to the Town Council. Unanimous vote in favor.

Also under this item, resident Jeremy Jones submitted an email indicating that he believes that the Town should license someone for herbicide application to control poison ivy and other invasive species in the Town Parks. The Manager also informed the Committee that 6 picnic tables had been completed by the public works department and six more were under construction. In addition, requests for bids on a porta-potty contract for the town have also been sent out.
 - b. Cable TV Equipment Update – The Town Manager presented the final cost information on the rebuild of the audio/video system for Cable Channel 7 and video streaming. Committee members questioned when the Town might receive the fee from Time Warner related to signing a new contract. She informed the Committee that the Cable Consortium was meeting on April 22nd and would have more information on the topic after that. It was suggested that this item be put on the Finance Committee meeting agenda for May 4th.
 - c. Children's Day Status – The Manager reported that this item had been voted on at the 4-6-15 Council meeting for the Town to continue to support Children's Day.
 - d. Veteran's Memorial – Request for Town to assume – Additional Information – The Manager presented answers to questions asked previously by committee members related to the costs/revenue associated with the Memorial Project. The Manager will be meeting with Craig Snow on Tuesday, April 14th to discuss the records that have been maintained by the memorial committee as

well as how they have handled the ongoing updating of the memorial. Motion by Councilor Marble, seconded by Mayor Ryder to have the Town Manager come back to the Services Committee at the next meeting with a draft proposal of the process the Town should have to take over the Memorial. Unanimous vote in favor.

3. NEW BUSINESS

- a. Saturday Bus Service – Following the presentation and question and answer session with Ms. Larkin from Penquis, the Committee discussed concerns related to the cost of Saturday bus service related to the actual number of Hampden residents served. Several Committee members indicated that service numbers for Hampden residents were impossible to know since part of the Hampden ‘route’ also serves City of Bangor residents. Other Committee members thought that Monday – Friday should be sufficient because that is when people have such things as doctor appointments or when they attend classes. Based on information from Ms. Larkin it may be possible to use some sort of contracted service for Saturday service in place of Saturday service with the Community Connector. The Manager reminded Councilors that any change considered would require a public hearing both in the town of Hampden and in Bangor by the Community Connector program. Councilor Marble cited the difference in populations served by the two different entities, with the Lynx being a social service operation and the Community Connector being public transportation. He had concerns that there not be any ‘stigma’ attached to the use of public transportation.

Resident Jeremy Jones submitted information related to this item via email and indicated that he believed that Saturday bus service should be discontinued because it is too expensive and that other alternatives should be explored.

This item will be discussed at the next Services Committee meeting once the additional information is received from Ms. Larkin with Lynx.

- b. Penquis CAP Lynx- Marcia Larkin – Marcia Larkin presented information to the Committee on the services provided by the Lynx transportation system. These included transportation to Mainecare appointments, service to those who are low-income according to DHHS guidelines, a Freedom Program which has no income guidelines but does require that the person using the service must have a disability. There is also a one-day-per-week general public transit program but only for communities not served by the Bangor Community Connector. 2 business days’ notice is required to make an appointment for service and some programs have a minimal cost each way of the trip. Lynx serves all of Penobscot and Piscataquis Counties and has 12 vehicles owned by the system and utilizes over 100 private vehicles with volunteer drivers. Statistics for Hampden from October 2014 through March 31, 2015 were for 4,206 trips for a total of 92,525 miles. Committee members asked how many people that represented and Ms. Larkin indicated she would

get that information. Since the Lynx program also distributes bus tickets as one option for providing service, the Manager asked what percentage of the total rides provided those tickets covered and Ms. Larkin indicated that she would get that information as well. She also indicated that some entities had service agreements with the Lynx program to serve their constituents. It was suggested that if the Town stopped Saturday bus service perhaps they could use some of the savings to pay for a service contract with Lynx to pick up the Saturday riderships from Hampden. Councilor Wilde indicated that he had had good experience with the Lynx system and heard the same from others.

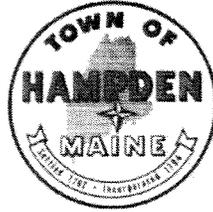
4. PUBLIC COMMENTS – None
5. COMMITTEE MEMBER COMMENTS - Councilor Shakespeare asked if the Town Manager had been in contact with the VFW Ladies Auxiliary regarding a donation to the flag program that is being taken over by the Town. The Manager indicated that she had spoken with a member of the Auxiliary who had indicated that the decision on whether or not the Auxiliary was going to be disbanded had not yet been made, but referred her to the Auxiliary president for further information.

The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Susan Lessard
Town Manager

D-5-b



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendment, Conditional Lot Dimensions
DATE: April 16, 2015

The Planning and Development Committee considered this item at their April 15, 2015 meeting and took the following action:

Carol Duprey made a motion to recommend the Town Council refer the Zoning Ordinance text amendment to the Planning Board for public hearing and recommendation. Dennis Marble seconded the motion which was approved six in favor and one against.

It was noted that Attorney Russell is working on a correction document which was not yet available.

The purpose of this draft amendment is to provide a mechanism for single family house lots to be buildable with less than the full frontage required in the district.

Town of Hampden

Draft

Additions are Underlined Deletions are ~~Strikethrough~~

4.3. Conditional Lot Dimensions

4.3.1. Purpose - It is the purpose of this section of the Ordinance to establish a procedure which would allow for residential development on certain lots which, because of inadequate road frontage, would not otherwise be usable for residential purposes. The lots must meet certain requirements as established in this section of the Ordinance and the development of the lots must be consistent with wise land use planning.

~~**4.3.2. Permit Required** - A conditional lot dimension permit issued by the planning board is required for the development of any lot having inadequate road frontage. The planning board shall follow the procedures outlined in Article 4.3.5 in reviewing any application for conditional lot dimension permit.~~

4.3.3. Information Required in Application - Application for the development of lots requiring a conditional lot dimension permit shall be accompanied by plans, drawn to scale, containing the following information:

1. Scale of map.
2. Name of applicant.
3. Boundaries of tract of land.
4. Location of existing and proposed buildings and other structures, including use and proposed use thereof.
5. Location of buildings on abutting properties or within five hundred (500') feet of the property line of the proposed development.
6. Location of existing public streets.
7. Location of all curb cuts within ~~one thousand (1,000') feet~~ five hundred (500') feet of the curb cut which will result from the development of the lot.
8. Location of existing and proposed rights of way, utilities and easements therefor; including sanitary sewerage, water and all electricity.
9. ~~Location, intensity, type, size and direction of all outdoor lighting.~~

~~**4.3.4. Application Procedure** - Persons seeking conditional lot dimension approval shall file one (1) original and twelve (12) copies of a complete application, including all information required under Article 4.3.3, with the code enforcement officer at least fifteen (15) days before the planning board meeting when they will be considered. Applicant shall also file site plan review application fees and other applicable fees paid in accordance with the Town of Hampden Fees Ordinance. Upon receipt of complete plans the code enforcement officer shall refer such plans to the planning board. The filing of the required application with the code enforcement officer shall constitute filing of an application for conditional lot dimension approval. (Amended: 11-17-03)~~

~~**4.3.5. Planning Board Review and Action** - Within forty five (45) days of the filing of the application for conditional lot dimension approval, the planning board shall approve, approve with modifications, or disapprove the application at a public meeting. The board shall limit its review to the criteria set forth in Article 4.3.6. The board may consult with the applicant or any other party in making its review. The board shall inform the applicant of its decision in writing, and in cases of disapproval or approval with modifications, reasons for such action shall be stated. A copy of the Board's decision shall be filed with the code enforcement officer.~~

4.3.6. Standards Governing Conditional Lot Dimension Permits

1. *General Requirements* - A conditional lot dimensions permit may only be issued if the following conditions are met:

- a. The lot and access way must be located in the Rural District, the Residential A District or the Residential B District.
- ~~b. The frontage of the lot must not have been reduced since January 1, 1979 below either 1.) the minimum lot frontage required in the district which it is located or, 2.) the nonconforming frontage in existence on January 1, 1979.~~
- c. The lot is of such dimensions that an imaginary square whose minimum side dimension is the minimum road frontage required in the district where the lot is located, can be accommodated within its borders. Any building that is located on the lot shall be located within the perimeter of such a square. If the lot falls within more than one zoning district, the side dimension for the square shall be determined by the district in which the building is to be built.
- d. No building shall be placed closer to any lot line or right of way boundary than the distance of the greatest required minimum setback in the district in which the building is located. In determining which dimension is applicable, the characteristic of the lot relative to off and on lot sewer and/or water and the dimensional requirements associated with such characteristics shall be used. No primary building shall be less than one hundred (100) feet from existing dwellings.
- e. There shall be no alternative access to the lot which conforms with the road frontage requirements established for the district.
- f. The development of the lot shall cause no unsafe or unhealthful condition. Of particular concern in this regard should be traffic safety.
- g. The lot shall conform to all dimensional requirements of this Ordinance except road frontage. Building setback requirements shall be determined by *Article 4.3.6.1.d* of this Ordinance.
- h. Only single family residential uses shall be allowed on these lots.
- i. The development of the lot shall not preclude the orderly development of the neighborhood and the community.
- j. The lot must have at least ~~thirty (30) feet~~ sixty six (66) feet of road frontage.

2. *Requirements Pertaining To Lots Having More Than 66 Feet Road Frontage* ~~In addition to the general requirements in 4.3.6.1.a-j, all lots with road frontage of sixty six (66') feet or more, but less than the required minimum road frontage in the district where the lot fronts the road, shall meet the following standards:~~

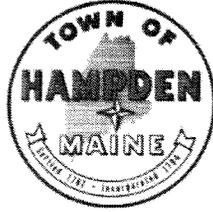
- ~~a. A sixty six (66') foot right of way into and through the lot must be provided to allow for future road building and/or subdivision activity. The right of way must be designed so as to make optimal use of the lot and adjacent undeveloped land, if such development becomes desirable in the future. In determining whether sufficient land is available for development of a dwelling unit, the land in the required right of way shall not be considered.~~
- b. Conditional lot dimension permits ~~shall not~~ can be issued for the cul-de-sac portion of ~~in~~ a subdivision. All other subdivision activity shall be governed by the Subdivision Ordinance of the Town of Hampden.
- c. No more than one (1) dwelling unit may be placed on the lot.

~~3. Requirements Pertaining to Lots Having Less Than Sixty-Six (66') Feet but at Least Thirty (30') Feet of Road Frontage—In addition to the general requirements in 4.3.6.1. a-j, all lots with less than sixty-six (66') feet but at least thirty (30') feet of road frontage shall meet the following standards:~~

~~a. There must be no alternative access which is greater than or equal to sixty feet (66') feet (if such access exists, that must be used and reviewed under the provisions of 4.3.6.2).~~

~~b. No more than one (1) dwelling unit may be placed on the lot.~~

D-5-C



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendment, Industrial District Building Height Standards
DATE: April 16, 2015

The Planning and Development Committee considered this item at their April 15, 2015 meeting and took the following action:

Dennis Marble made a motion to recommend the Town Council refer the Zoning Ordinance text amendment to the Planning Board for public hearing and recommendation. Carol Duprey seconded the motion which was approved unanimously.

This draft amendment provides a mechanism for the Planning Board to approve buildings over 35 feet in height in the Industrial District through Conditional Use review.

3.2. Industrial District

3.2.1. Purpose - These areas are set aside for non-service intensive industrial uses which do not require the amenities of an industrial park and which would fit into the surrounding rural area with ease. Industries needing public sewer or water are not expected to locate in these areas.

3.2.2. Permitted Uses (Subject to Site Plan Review) - Facilities for manufacturing, compounding, processing, packaging, essential service, wireless telecommunications facilities (subject to *Section 4.22*), treatment or warehousing of goods and products, wholesale distribution, take out restaurant, retail sales where such activities are part of and accessory to an industrial use, such facilities having less than five thousand (5,000) square feet of gross floor area, and accessory uses and structures. Excavation, gravel pit and quarry activities are not permitted in the district. (Amended: 10-01-01, 12-6-04, 12-17-07)

3.2.3. Conditional Uses (Subject to Site Plan Review) - Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to *Article 4.24*), methadone clinic (subject to *Article 4.24*), facilities for manufacturing, compounding, processing, packaging, treatment, buildings necessary for essential services, or warehousing of goods and products, wholesale distribution, retail sales where such activities are part of and accessory to an industrial use, such facilities having more than five thousand (5,000) square feet of gross floor area. Stockpiles (subject to *Article 4.9*), but not including excavation, gravel pit and quarry activities. Accessory uses or structures, building or living quarters for security personnel and buildings greater in height than thirty-five (35) feet. (Amended: 12-17-07, 03-07-11)

3.2.4. Lot Dimensions

Minimum Lot Area	-	2 acres
Minimum Road Frontage	-	150 feet
Minimum Setbacks:		
Street Yard	-	50 feet
Other Yards	-	35 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

3.2.5. Special District Regulations

1. Notwithstanding the above requirements any structure which requires access to rail service shall not be required to setback from the railroad siding.
2. In order to provide for harmonious development and preserve the rural character the Planning Board may require additional buffers beyond that required in *Article 4.7.11*. (Amended 8-17-92)

Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement. (Amended: 01-19-06)

EXAMPLE: A 48 foot tall building is proposed. By subtracting the base District maximum building height from the proposed height the following is the result $48' - 35' = 13'$.

Then add that amount to each yard or setback.

<u>Setback Type</u>		<u>Base Setbacks:</u>	<u>Total Setback</u>
<u>Street Yard</u>	-	<u>50 feet</u>	<u>63 feet</u>
<u>Side Yard</u>	-	<u>35 feet</u>	<u>48 feet</u>
<u>Rear Yard</u>	-	<u>35 feet</u>	<u>48 feet</u>

TOWN OF HAMPDEN
2015/16 BUDGET MEETING SCHEDULE

Budget discussions on Council meeting nights are conducted after the regular agenda. Budget meetings on Committee meeting nights are scheduled at 7 p.m. In consideration of other meetings related to the Manager Search I have attempted to schedule the budget meeting on nights that are already council meeting or committee meeting dates whenever possible.

May 4, Monday	(Council Meeting) Public Safety Police Fire
May 11, Monday: (7 p.m. after Services)	Administration Economic Development GIS/IT Assessor/Planning Communications Tax Collector Elections Town Council
May 18, Monday:	(Council Meeting) Library Recreation Lura Hoit Pool Debt Service Reserves TIF
May 20, Wednesday (7 p.m. after Planning & Dev.)	The Bus Public Works Municipal Garage Solid Waste Buildings & Grounds Marina Non-Departmental Utilities Municipal Building
May 26, Tuesday:	(Council Meeting) Revenues County Tax General Assistance Education Budget Review
June 1, Monday:	(Council Meeting) Budget Review – Post for Public Hearing
June 15, Monday:	(Council Meeting) - Budget Adoption

The Town of Hampden hereby ordains:

**TOWN OF HAMPDEN
Code of Ethics**

Section 1. Declaration of Policy.

The proper operation of democratic government requires that Town Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors and all members and associate members of any Board or Committee appointed by the Town Council. This Code of Ethics is not intended to deny Council members, nor Board or Committee members, their constitutional rights nor violate their civil rights.

Section 2. Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated.

Business: Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legally recognized entity, organized for the purposes of making profit.

Censure: A judgment or resolution condemning a person for misconduct.

Confidential Information: Any information, whether oral, written, digital or electronic, which comes to the attention of, or is available to, a Town Official only because of his or her position with the Town and which is not a matter of public record. Information received or discussed during an executive session called pursuant to 1 M.R.S. §405 shall be considered confidential information, and shall not be disclosed to any third party unless permitted by affirmative vote of the body which held the executive session.

Council Appointee: Any sworn member or associate member of any board or committee appointed by the Town Council, including but not limited to appointed Board members, Committee members, and Commission members.

Financial Interest: a direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of stock.

Immediate Family – Spouse, children, parents, brothers, and sisters. This includes family members related by marriage and adoption.

Special Interest: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution, or the

approval, approval with conditions or denial of any application by the Town Council or Council Appointees, and which interest is not shared by the general public.

Town Councilor: Sworn member of the Hampden Town Council

Town Employee: Any individual working for, on a permanent or temporary basis, and drawing a salary, wages or stipend from the Town of Hampden. The term "Town Employee" shall not include consultants or professional personnel providing services to the Town as independent contractors under a written professional services contract or other similar engagement.

Town Official: A member of the Town Council or a member of any appointed committee, board or commission of the Town Council.

Sec 3. Standards of Conduct.

The purpose of this Code of Ethics is to establish standards of conduct for all Town Councilors and Council Appointees by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Hampden.

3.1 Statutory Standards: There are certain provisions of the general statutes of the State of Maine, which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Town Councilors or Council Appointees whenever applicable, as if more fully set forth herein, to wit:

- 17 MRSA §3104 Conflicts of Interest; Purchases by the State
- 17-A MRSA §456 Tampering with Public Records or Information
- 17-A MRSA §602 Bribery in Office with Political Matters
- 17-A MRSA §603 Improper Influence
- 17-A MRSA §604 Improper Compensation for Past Action
- 17-A MRSA §605 Improper Gifts to Public Servants
- 17-A MRSA §606 Improper Compensation for Services
- 17-A MRSA §607 Purchase of Public Office
- 17-A MRSA §608 Official Oppression
- 17-A MRSA §609 Misuse of Information
- 17-A MRSA §903 Misuse of Entrusted Property
- 21-A MRSA §504 Persons Ineligible to Serve
- 30-A MRSA §2605 Conflicts of Interest
- 30-A MRSA §5122 Interest of Public Officials, Trustees of Employees

3.2 Disclosure of Confidential Information: No Town Councilor or Council Appointee shall, without proper legal authorization, disclose confidential information concerning the property, employees or applicants for employment, government or affairs of the

Town, nor shall he or she use such information to advance the financial or private interest of him or herself or others. Information received and discussed during an executive session of the Hampden Town Council or any Town Board, Committee, or Commission pursuant to 1 M.R.S. §405 shall be considered within the constraints of this subsection, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.3 Gifts and Favors: No Town Councilor or Council Appointee shall solicit or accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor or Council Appointee: 1) solicit or accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties or 2) solicit or grant in the discharge of his or her official duties any improper favor, service or thing of value. The foregoing is not intended to prohibit normal social practices where gifts from friends, associates, and relatives are appropriate for certain occasions.

3.4 Use of Town Property: No Town Councilor or Council Appointee shall use, or permit the use of, any Town-owned property including, but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established for the public at large.

3.5 Conflicts of Interest.

A. Deliberation and Vote Prohibited

1. No Town Councilor or Council Appointee shall participate directly or indirectly by means of deliberation, voting, approval or disapproval, or recommendation, or otherwise take part in the decision making process, on any agenda item before the body of which he or she is a member if he or she, or a member of his or her immediate family, has a financial or special interest, other than that possessed by the public generally, in such purchase, award, or approval, held by:
 - a. The Town Councilor or Council Appointee, or a member of their immediate family; or
 - b. A business in which the Town Councilor or Council Appointee, or a member of their immediate family, serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
 - c. Any other person or business with whom the Town Councilor, or Council Appointee, or a member of their immediate family, are in

business or are negotiating, or have an arrangement concerning future employment.

2. No Town Councilor or Council Appointee shall participate directly or indirectly by means of deliberation, approval or disapproval, or recommendation of an application, purchase, contract, or other legal matter, or in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, where said applicant or employee is:
 - a. A member of their immediate family; or
 - b. A person with whom either the Town Councilor or Council Appointee, or his or her immediate family, are in business.

B. Disclosure of Conflict. Any Town Councilor or Council Appointee who believes he or she, or a member of his or her immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before the body on which he or she serves shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the Town Council, Committee, Board, or Commission at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the Town Councilor or Council Appointee is present. Additionally, any Town Councilor or Council Appointee who believes that any fellow Town Councilor or Council Appointee, or a member of such fellow Town Councilor's or Council Appointee's immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure.

C. Determination of Conflict. In the event that a conflict has been raised relative to an individual Town Councilor or Council Appointee, and disclosure has been made as described above, such individual's fellow Town Councilors or Council Appointees shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Town Councilor or Council Appointee present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor's or Appointee's alleged conflict of interest.

1. All votes of conflicts of interest questions shall be recorded. A majority vote shall determine the question; but a vote by Boards, Committees, and

Commissions may later be reviewed by Town Council upon the Town Council's consideration of the same agenda item.

2. Upon determination that a conflict of interest in fact exists, the Town Councilor or Council Appointee concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
3. In lieu of the vote required by this subsection, the Town Council, upon motion and by majority vote may refer the conflict of interest question to the Town Attorney for a legal opinion, or may table its consideration of the relevant agenda item. In the event a majority of the Town Council, Board, or Commission concerned, or Committee thereof, shall require disclosure of further information not immediately available, or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

D. Avoidance of Appearance of Conflict: To avoid the appearance of a violation of this Section, once any individual Town Councilor, committee member, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflicts of interest questions relating to the agenda item concerned have been determined as provided in Subsection C above, said individual shall immediately remove him or herself from the meeting room or to the area of the room occupied by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual councilor, committee member, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by other members and the right to abstain from voting on the item has been granted.

E. Personal Interest. Nothing herein shall be construed to prohibit any Town Councilor or Council Appointee from representing his or her own personal interest by appearing before his or her collective body on any such agenda item, as long as the representation occurs in the area of the meeting room occupied by applicants or members of the general public.

F. Disclosure Statement. By no later than January 15th of each year, or within fifteen (15) days of being sworn in for a Town Councilor elected at a special election to fill a vacancy, every Town Councilor shall file a completed disclosure form with the Town Clerk. Within thirty (30) days after his or her appointment, every Council Appointee shall file a completed disclosure form with the Town Clerk. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

1. The name of each person or entity whether incorporated or not, doing business with the Town in an amount in excess of \$1000 during the preceding calendar year from which such disclosing party or member of his

immediate family has received money or other thing of value in an amount in excess of \$1000 during the preceding fiscal year, including, but not limited to campaign contributions, where applicable.

2. The name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1000 for the preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1000 , including, but not limited to, the ownership of shares of stock.
3. The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board which does business or may potentially do business with the Town. For such entity, such disclosing party shall provide the following information:
 - a. A brief description of the purpose of each board and/or office;
 - b. A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - c. The term of service on each such board and/or office; and
 - d. Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this section "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.

4. Every Town Councilor or Council Appointee shall amend his or her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each amendment shall be made within fifteen days following the occurrence which requires the amendment.
5. The Town Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the Town Council/Board/Committee of each disclosing party within thirty days of filing.
6. For the purposes of this Ordinance, a list prepared by the Treasurer of those persons or entities doing business with the Town in an amount in excess of \$1000 for the preceding year shall be determinative for purposes of reporting under this section. Income from and financial investments in, policies of insurance, and deposits from accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less

than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered a financial interest within the meaning of this section.

Sec 4. Political Activities.

No Town Employee, Town Councilor or Council Appointee shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties of the Town. In conjunction therewith, no Town Councilor or Council Appointee may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election for public office, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from Town Employees for political purposes. No Town Councilor or Council Appointee may distribute handbills or pamphlets while he or she is performing official functions or duties on behalf of the Town, unless such distribution has been authorized by the body of which he or she is a member. Nothing herein shall be construed to prohibit any Town Councilor or Council Appointee from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Sec 5. Incompatible Employment or Office.

No Town Councilor or Council Appointee shall occupy any other office, elected or appointed, in another governmental entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this section, the occupancy of any office, elected or appointed, with any other governmental entity by any Town Councilor or Council Appointee is hereby prohibited in the following circumstances:

- A. Where the duties of the other office make it a physical impossibility to discharge the duties of the Town position; or
- B. Where one office is subordinate to the other; or
- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by the Town Charter or by other provisions of law.

Sec 6. Violations of Ethical Standards by Councilors.

When any Councilor believes there has been a breach of the ethical standards set forth herein by another Town Councilor, he or she may ask to enter into executive session pursuant to 1 M.R.S. §405 for purposes of informal discussion of and resolution of an ethical issue. During such session, the Councilor shall specify which area(s) of this Ordinance he or she feels have been breached and by whom. After discussion among all Councilors, the Town Council shall leave executive session, and may proceed with

formal action only by majority vote of the Councilors not alleged to have breached the ethical standards.

- A. Based on information provided in said executive session, the Town Attorney shall provide the Council with an opinion on whether the cited matter(s) constitute a violation of this Ordinance.
- B. All procedures under this section shall be in accord with due process requirements, including, but not limited to, a right to notice and hearing.
- C. The Council may elect to give written warning in lieu of any other remedy or civil penalty available under this Ordinance or any other law or ordinance.

Sec 7. Ethics in Contracting.

The provisions of this Section shall apply to all persons doing business with the Town of Hampden as vendors, suppliers and contractors submitting bids or proposals in response to a Town solicitation or advertisement.

7.1 Gratuities and Kickbacks

- A. **Gratuities.** It shall be a violation of this Ordinance for any person to offer, give, or agree to give any Town Councilor or Council Appointee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or award pertaining to a Town purchase order, contract, construction contract, or professional services contract, or with respect to any solicitation, advertisement, request for bids, request for proposals, or any bid, proposal, or other response thereto.
- B. **Kickbacks.** It shall be a violation of this Ordinance for any person to solicit, offer, give, accept, or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a Town of Hampden contract for construction, procurement or professional services. To be valid, any disclosure under this paragraph must be made in writing to the Town of Hampden Town Manager prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this Ordinance to solicit, offer, give, accept, or receive any such gratuity or offer of employment in violation of applicable State or Federal Law.

7.2 Prohibition against Contingent Fees

It shall be a violation of this Ordinance for a person to be retained, or to retain a person, to solicit or secure a Town contract upon an agreement or

understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

7.3 Recovery of Value Transferred or Received in Breach of Ethical Standards.

The value of anything transferred or received in breach of the ethical standards of this Ordinance by a Town Councilor or a Council Appointee or other person may be recovered from both the Town Councilor or Council Appointee concerned and from the other person concerned.

7.4 Recovery of Kickbacks by the Town

Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the Town and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

7.5 Penalties and Sanctions

- A. In addition to the recoveries provided in Subsections 7.3 and 7.4 above, any violation of Section 7 shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this Section 7 shall be fined not less than three times the value of any improper gift or kickback paid, solicited, or received, or \$500, whichever is greater. The penalties provided in this paragraph shall be in addition to any penalties imposed under State or Federal Law.
- B. Upon conviction of a violation of this Section 7 or upon finding a violation by the Town Council or any Council Appointee following written notice and hearing, the Town Council may impose one or more of the following sanctions on the person, firm, or corporation convicted or found to be in violation:
 - i. written warnings or reprimands
 - ii. termination of contracts
 - iii. debarment or suspension of Town purchasing
- C. Termination of a contract under this Section 7.5 shall also terminate the contractor's right to receive further payment thereunder.

- D. The provisions of this Section 7 shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any Town of Hampden construction, procurement, or professional services contract with a base bid in excess of \$10,000. In the case of a professional services contract, the 'base bid price' shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Sec 8. Penalties for Town Council or Town Council Appointees.

Any Town Councilor or Council Appointee who violates a provision of this Ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 for each offense, which civil penalty shall inure to the benefit of the Town. In addition, violation of this Ordinance shall constitute cause for censure by the Town Council after notice and hearing conducted by that body.

Sec 9. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

Sec 10. Repeal of Prior Ordinance

The existing Code of Ethics Ordinance adopted on May 15, 2000 is hereby repealed in its entirety.

Sec 11. Effective Date

Pursuant to Section 213(c) of the Town Charter, the foregoing provisions shall be effective 30 days after the adoption of this Ordinance by the Town Council.

ADOPTED BY TOWN COUNCIL: May 7, 2012
Effective Date: June 6, 2012